

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
South Bend Division**

IN RE: Cynthia Ann Holcomb, Debtor

Cynthia Ann Holcomb

PLAINTIFF

Vs.

SLM Corporation (a/k/a Sallie Mae) and/or
Educational Credit Management Corp.
USA Funds, US Dept of Education
Direct Loan Servicing Center
University Accounting Service/Indiana University

CREDITORS-CORRESPONDENTS

Case No: 08-34272-hcd

Chapter: 7

Judge Harry C. Dees, Jr.

Adversary Proceeding
Number _____

2012 JUN 22 PM 11:10
CLERK OF COURT
U.S. DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND, IN

**MOTION TO DETERMINE DISCHARGEABILITY OF STUDENT LOANS
PURSUANT TO 11 USC § 523(a)(8)**

Comes now the Debtor-Plaintiff, Cynthia Ann Holcomb, requesting this Court to determine the dischargeability of her student loans which were made prior to August 20, 2010; and, in support thereof, the Debtor-Plaintiff avers as follows;

FACTS OF THE CASE

- 1) FACT: On December 2, 2008, the Debtor-Plaintiff, Cynthia Ann Holcomb, filed for bankruptcy protection under Chapter 13. The Case #08-34272-hcd was converted to Chapter 7 bankruptcy code on August 20, 2010 and was discharged on November 29, 2010 by Judge Harry Dees; the Discharge under Section 727 of Title 11 is hereto attached as EXHIBIT A. This Court has jurisdiction over this action under 28 USC § 1334. This proceeding is a core proceeding.
- 2) FACT: It is true that the student loans are governed by 11 U.S.C. § 523 and usually are not dischargeable; however, the Debtor-Plaintiff is seeking the Court's protection under 11

U.S.C. § 523 (a)(8) known as the undue hardship rule. The Debtor-Plaintiff's Schedules A through J were filed with the Chapter 7 Bankruptcy Proceeding Case# 08-34272-hcd and are on file with this Court. The Debtor-Plaintiff's current Social Security Disability is verified by the Social Security Disability Deposit attached hereto as EXHIBIT B. The Debtor-Plaintiff's Chapter 7 was a "no asset" case. The Debtor-Plaintiff surrendered and quitclaimed the 1458 Bridge Water Way, Mishawaka, IN condo back to Deutsche Bank, Et al and did not reaffirm the debt on the 2006 Suzuki Aerio. The Debtor-Plaintiff currently resides in a rental at 1702 Longwood Court, Goshen, IN 46526. It is true that any payments made on the student loans would cause undue hardship to the Debtor-Plaintiff and the Debtor-Plaintiff would have to choose between necessary medical attention for her disability or payment of the student loans which would be unconscionable; the Debtor-Plaintiff's current budget is attached hereto as EXHIBIT C.

- 3) FACT: The Debtor-Plaintiff's education was under the supervision of Elkhart Vocational Rehabilitation Office and the Debtor-Plaintiff's plan was administered by Counselor James Allen #A05JA052; the case number is listed under the Debtor-Plaintiff's social security number. The Debtor-Plaintiff was being vocationally rehabilitated for her medical condition and her medical record from the University of Chicago Hospitals is hereto attached as EXHIBIT D. The Vocational Rehabilitation reference is attached as EXHIBIT D1. The admitting diagnosis on Exhibit D states the "Patient has had six joint arthroplasties. Bilateral total shoulders 1991. Bilateral total hip arthroplasties 1992. Bilateral total knee arthroplasties 1993." The cause of the Avascular Necrosis in 1991 was related to a steroid given to the Debtor-Plaintiff in 1988 for a subdural hematoma. An arthus reaction to IV steroids given in 1988 manifested in the Debtor-Plaintiff in 1991 and caused Volkmann's Contracture of the Haversian System (bone system) to all load bearing joints, commonly known as Avascular Necrosis (AVN) or Bone Death. Due to the death of Lawrence A. Pottenger, M.D., the

Debtor-Plaintiff's lower extremity surgeon and Biomet part designer, the Debtor-Plaintiff is currently under the care for pain (Dr. Schrock) and Avascular Necrosis (Dr. Klaassen) at the Orthopedic and Sports Medicine Center (OSMC); see the Debtor-Plaintiff's left and right knee X-Rays completed on 03/01/2012 hereto attached as EXHIBITS E & F. You will note the fractures that continue to happen on a daily basis and the holes generated around the prostheses by the Debtor-Plaintiff's Avascular Necrosis (AVN). The pain and suffering of the Debtor-Plaintiff is preventing gainful employment.

- 4) Fact: Undue hardship is met by the Debtor-Plaintiff according to the Brunner Test, based on Brunner v. New York State Higher Education Services Corp., 831 F. 2d 395 (2d Cir. 1987):
 - a) Fact: The Debtor-Plaintiff cannot maintain a "minimal standard of living" for herself if required to repay the student loan payments per month. The Debtor-Plaintiff would have to choose between needed healthcare or student loan payments. This statement is fact and is supported by the Debtor-Plaintiff's minimal budget hereto attached as Exhibit B filed with this motion. (Note: per the Census Bureau the median income for one in the State of Indiana is \$45,427 per year; the Debtor Plaintiff nets \$24,288 per year.)
 - b) FACT: Health deterioration, or "additional circumstances exist indicating that this state of financial affairs of the Debtor-Plaintiff is likely to persist in hardship" due to the Debtor-Plaintiff's disability and unemployment for all or a significant portion of the repayment period of the student loans (see attached Exhibits E, f, & G). The Debtor-Plaintiff requires two knee prostheses removal and replacements which are at "high risk" at best for the Debtor-Plaintiff; see EXHIBIT G hereto attached (Dr. Klaassen's narrative and surgery recommendation). These statements are fact and are supported by the Debtor-Plaintiff's medical records which are attached as Exhibits E, F, & G.
 - c) FACT: The Debtor-Plaintiff has made "good faith" effort to repay the loans by attempting to become employable, though her deteriorating medical condition of AVN

has not allowed her to do so. The Debtor-Plaintiff has been in contact with the student loan agencies and has applied for an income-based or contingent repayment plan hereto attached as EXHIBIT H. The good faith statement is fact and it is supported by the Trustee's report that the prior Chapter 13 payment plan (in which the Debtor-Plaintiff made all payments on the Student Loans to the Trustee) was up to date until the Debtor-Plaintiff requested protection under the Chapter 7 Code of Title 11.

STATEMENT OF THE LAW AND ARGUMENT

The Debtor-Plaintiff did make student loans with the defendants; however, the standard for determining the Dischargeability student loans in bankruptcy is governed as follows:

A discharge under section 727 . . . of [Title 11] does not discharge an individual debtor from any debt . . . for an educational benefit overpayment or loan made, insured or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution, or for an obligation to repay funds received as an educational benefit, scholarship or stipend, unless excepting such debt from discharge under this paragraph will impose an undue hardship on the debtor and the debtor's dependents.

11 U.S.C. §523(a)(8).

The phrase "undue hardship" is not defined anywhere in the Code; thus it is a factual determination to be made by the Court, *In re Cline*, 245 B.R. 617, 620 (Bkrtcy. W.D. Mo. 2000). In the Eight Circuit, Courts look to the "totality of the circumstances" to determine whether discharge is appropriate in a particular case, *Id.*, *In re Andrews*, 661 F.2d 702, 704 (8th Cir. 1981). This standard is applied according to three principles: (i) the current and future financial resources of the debtor and the debtor's dependents; (ii) the debtor's reasonable living expenses; and (iii) any other facts that apply uniquely to the particular case, *In re Cline*, 248 B.R. 347 (B.A.P. 8th Cir. 2000) (citing *Andrews*).

- (i) Debtor-Plaintiff's financial resources, now and in the foreseeable future, are quite minimal. Debtor-Plaintiff does not work, is living on a modest income from Social Security Disability, and due to her disability has continual medical expenses leaving no expendable income. In *Cline*, the debtor had an advanced degree and Debtor-Plaintiff does not, and during the period in question, the *Cline* debtor made approximately \$25,000.00 per year, a sum exceeding what Debtor-Plaintiff nets. Meanwhile, the amount due on the loans in *Cline* was not as great as what Debtor-Plaintiff owes in this

case; yet the District Court granted Cline a discharge of her student loan debt, Cline, 245 B.R. at 621, and the Eighth Circuit Bankruptcy Appellate Panel affirmed. Cline, 248 B.R. at 351. The Debtor-Plaintiff receives \$2,068 net from Social Security Disability monthly. This is her only form of income (see Exhibit B).

- (ii) The “necessary reasonable living expenses” for the Debtor-Plaintiff are also not excessive. The Eighth Circuit Bankruptcy Appellate Panel, in upholding the ruling of the lower court, found that the debtor in Cline had as much as a \$328.00 surplus each month, even while paying modest rent on a townhome. Debtor-Plaintiff pays modest rent of \$500 and still has scarcely enough money to pay for minimal expenses each month, foregoing entertainment and household expenses out of necessity. Additionally, the Cline Court noted that “going over Cline’s expenses dollar for dollar in order to find every possible way to boost a surplus is not reasonable given that the overall total remains fairly minimal.” 248 B.R. at 351.
- (iii) Other factors, considered in the light of Cline, which buttress Debtor-Plaintiff’s argument for discharge include the fact that: Cline had no disability, Debtor-Plaintiff does; Cline was 35, Plaintiff is 54; Cline reasonably declined a payment plan extending her payments out for 35 years, Debtor-Plaintiff does not wish to find herself with no hope of financial recovery for 25 years; Cline obtained higher paying jobs but requested transfers because she couldn’t handle the new responsibilities and stress...the Debtor-Plaintiff has sought jobs that she can handle; but, remains unemployable due to her disability and constant pain. The key phrase used by the District Court, upheld by the Eighth Circuit, is that “like some debtors, Ms. Cline obtained an education that was not worthwhile to her financially. To require her to pay for that decision for the rest of her working life would indeed impose an undue hardship on her.” This is particularly true in Debtor-Plaintiff’s case, when the loss of her education investment was not due to her own actions but her disability coming out of remission. The Debtor-Plaintiff has no excess expendable income and to require her to pay student loans would require her to not pay her necessary medical bills.

Based upon the foregoing, Debtor-Plaintiff is entitled to discharge of her Student Loans because failure to do so would be both an undue hardship and unconscionable.

WHEREFORE, the Debtor-Plaintiff, Cynthia Ann Holcomb, prays and respectfully requests relief under 11 U.S.C. §523(a)(8) and states that the Dischargeability of student loans , such as those held by the defendants, is governed by 11 U.S.C. §523(a)(8); and, that repayment would impose an “undue hardship” on the Debtor-Plaintiff.

Respectfully submitted June 22, 2012,

By: 

Cynthia Ann Holcomb, Debtor-Plaintiff, *Pro se*
1702 Longwood Court, Goshen, IN 46526
(574) 536-947

B18 (Official Form 18) (12/07)

United States Bankruptcy Court

Northern District of Indiana

Case No. 08-34272-hcd

Chapter 7

In re Debtor(s) (name(s) used by the debtor(s) in the last 8 years, including married, maiden, trade, and address):

Cynthia Ann Holcomb
1702 Longwood Court
Goshen, IN 46526

Social Security / Individual Taxpayer ID No.:

xxx-xx-2290

Employer Tax ID / Other nos.:

DISCHARGE OF DEBTOR

It appearing that the debtor is entitled to a discharge,

IT IS ORDERED:

The debtor is granted a discharge under section 727 of title 11, United States Code, (the Bankruptcy Code).

BY THE COURT

Dated: 11/29/10

Harry C. Dees, Jr.
United States Bankruptcy Judge

SEE THE BACK OF THIS ORDER FOR IMPORTANT INFORMATION.

EXHIBIT A



JPMorgan Chase Bank, N.A.
P O Box 659754
San Antonio, TX 78265-9754

April 17, 2012 through May 15, 2012

Account Number:

23

CUSTOMER SERVICE INFORMATION

Web site: Chase.com
Service Center: 1-800-935-9935
Deaf and Hard of Hearing: 1-800-242-7383
Para Espanol: 1-877-312-4273
International Calls: 1-713-262-1679



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CYNTHIA A HOLCOMB
1702 LONGWOOD COURT
GOSHEN IN 46526-1469

IMPORTANT INFORMATION REGARDING ATM TRANSFERS

Please note that we are extending our ATM cutoff time for transfers between Chase accounts to better serve you. For transfers and deposits at most Chase ATMs, the cutoff time is 11 p.m. Eastern time. For ATMs with an earlier cutoff, the ATM screen will notify you of the cutoff time. We hope you enjoy this added convenience.

This change updates your Deposit Account Agreement under the Funds Availability Policy section, the second bullet under "When Your Deposit is Received." This change applies to Chase personal checking and savings accounts as well as Chase business checking and savings accounts. All other terms of your account agreement remain the same. If you have any questions, please refer to the phone number on your statement or visit your nearest Chase branch.

CHECKING SUMMARY

Chase Checking

	AMOUNT
Beginning Balance	\$108.57
Deposits and Additions	2,077.50
Checks Paid	- 963.24
ATM & Debit Card Withdrawals	- 197.92
Electronic Withdrawals	- 963.57
Ending Balance	\$61.34

DEPOSITS AND ADDITIONS

DATE	DESCRIPTION	AMOUNT
04/30	Credit Due To Debit Card Dispute	\$9.50
05/03	US Treasury 30 th Xxsoc Sec PPD ID: 3031036030	2,068.00
Total Deposits and Additions		\$2,077.50

*See See Disability
Verification*

EXHIBIT B

CURRENT INCOME AND EXPENSE - 06/22/2012

CYNTHIA ANN HOLCOMB #08-34272-hcd

INCOME	\$ 2,193.50	Social Security Disability Income	
	\$ 96.50	Medicare Premium	
	\$ 29.00	Prescription Premium	
	<u>\$ 2,068.00</u>	Net Monthly Social Security Disability Income	
EXPENSES	\$ 500.00	Rent	
	\$ 105.00	Goshen Water & Sewer/Trash	
	\$ 319.34	Auto - Capital One Auto (high interest from Bankruptcy)	
	\$ 130.13	Insurances	
	\$ 61.68	Geico Car Insurance	
	\$ 195.72	Gas & Electric	
	\$ 82.00	Cell Phone (must have for emergencies)	
	\$ 35.00	Prescription copays	
	\$ 10.00	IU Hospital - Monthly Payment	Hospital/Out Pt Service
	\$ 10.00	IU Hospital - Monthly Payment	Hospital/Out Pt Service
	\$ 10.00	IU Hospital - Monthly Payment	Hospital/Out Pt Service
	\$ 10.00	IU Hospital - Monthly Payment	Hospital/Out Pt Service
	\$ 10.00	IU Hospital - Monthly Payment	Hospital/Out Pt Service
	\$ 10.00	IU Physicians - Monthly Payment	Heart
	\$ 10.00	South Bend Clinic - Monthly Payment	Thyroid
	\$ 10.00	OSMC - Monthly Payment	Bone/Pain
	\$ 17.42	License Plate (\$209.05 yr)	
	\$ 115.00	Vehicle Fuel/Lube/Maint	
	\$ 45.00	Clothing/Foundations	
	\$ 350.00	Food	
	\$ 35.00	Laundry/Cleaning Supplies	
	<u>\$ 2,071.29</u>		
	<u>\$ (3.29)</u>	Net DEFICIT for General Practitioner Co-Pay/Eye/Dental and ?	
		(These things come out of the Debtor-Plaintiff's Food/Clothing Budget)	

EXHIBIT C

University of Chicago Hospitals

Radiology Report

Patient: HOLCOMB, CYNTHIA

DOB: 05/25/1958

Sex: F

Medical Record ...

Attending: James W. Ryan, MD

Status: Signed (final)

Urgency Desc: Signed (final)

Day Number: 0333

Admitting Diagnosis:

Clinical Data: Patient has had six joint arthroplasties. Bilateral total shoulders 1991. Bilateral total hip arthroplasties 1992. Bilateral total knee arthroplasties 1993. Evaluate for loosening or avascular necrosis.

Referring MD: Lawrence A. Pottenger, MD

Referring Service:

Patient Location: Orthopedics General

Exam Results:

Exam: Bone Scan by 3 Phase Technique

COMPARISON: No previous bone scans in our section

DOSE: 26.0 mCi Tc-99m HDP intravenously.

FINDINGS: Three-phase imaging of the knees was acquired along with blood pool images of the anterior shoulders and hips. In addition, standard delayed imaging including whole-body images and spot views of the anterior and posterior pelvis were obtained.

There is a focus of increased activity near the distal tip of the femoral component on the left. There is mildly increased periprosthetic activity involving the left greater trochanter. The right hip shows no significant periprosthetic abnormalities. There is slightly increased periprosthetic activity bilaterally in the knees. This is slightly more pronounced in the left compared with the right. There is no significant periprosthetic increase noted in either shoulder.

The early blood pool images show a mildly increased focus corresponding to the site of increased activity at the tip of the left femoral component. No other significant focal abnormality noted in the blood pool images and there is no significant asymmetry in perfusion to the knees.

There is slightly increased activity in the ankles and feet. No other focus of increased activity is noted to indicate a significant bony lesion.

Activity is present in both kidneys and the bladder.

IMPRESSION:

1. Probable loosening noted in the distal aspect of the femoral component of the left hip arthroplasty.
2. No other significant abnormalities to indicate loosening in the right hip or either shoulder.
3. The increased periprosthetic activity around the knees is of uncertain significance. Standards for abnormality in the bone scans following knee arthroplasties are not as well-defined as they are with arthroplasties involving the hips.

EXHIBIT D

October 14

Page: 1

Mitchell E. Daniels, Jr., Governor
Anne Waltermann Murphy, Secretary
State of Indiana



"People
helping
people
help
themselves"

Division of Disability and Rehabilitative Services

1659 Mishawaka Street
Elkhart, IN 46514

TTD: (574) 264-3723
VP: (574) 264-5693

Phone: (574) 262-2086
Toll Free: (877) 847-9897
Fax: (574) 264-6487

Jun 04, 2009

Cyndi Holcomb
1702 Longwood Ct.
Goshen, IN 46526

Case # is 01 - E my Social Security #

Greetings:

This is to announce that the Elkhart Vocational Rehabilitation Office is moving on or about June 11, 2009. Our new location will be 1659 Mishawaka Street, Elkhart, IN 46514.

Our office telephone number and fax number are changing. Our new phone number is (574) 262-2086 and the fax is (574) 264-6487.

We are told that we will be unavailable for two days through this moving process.

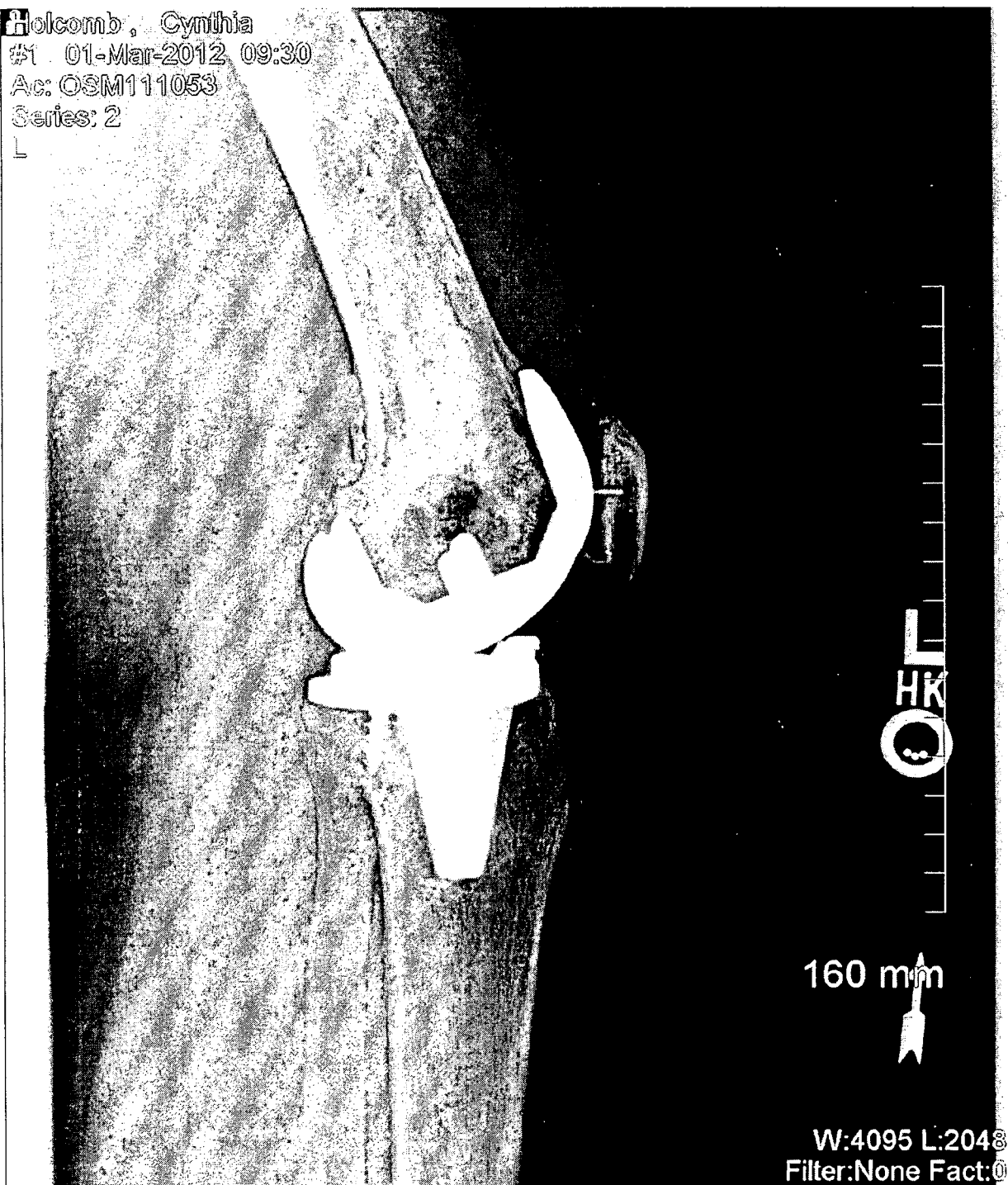
Your patience and cooperation during this period will be greatly appreciated. Thank you.

Sincerely,

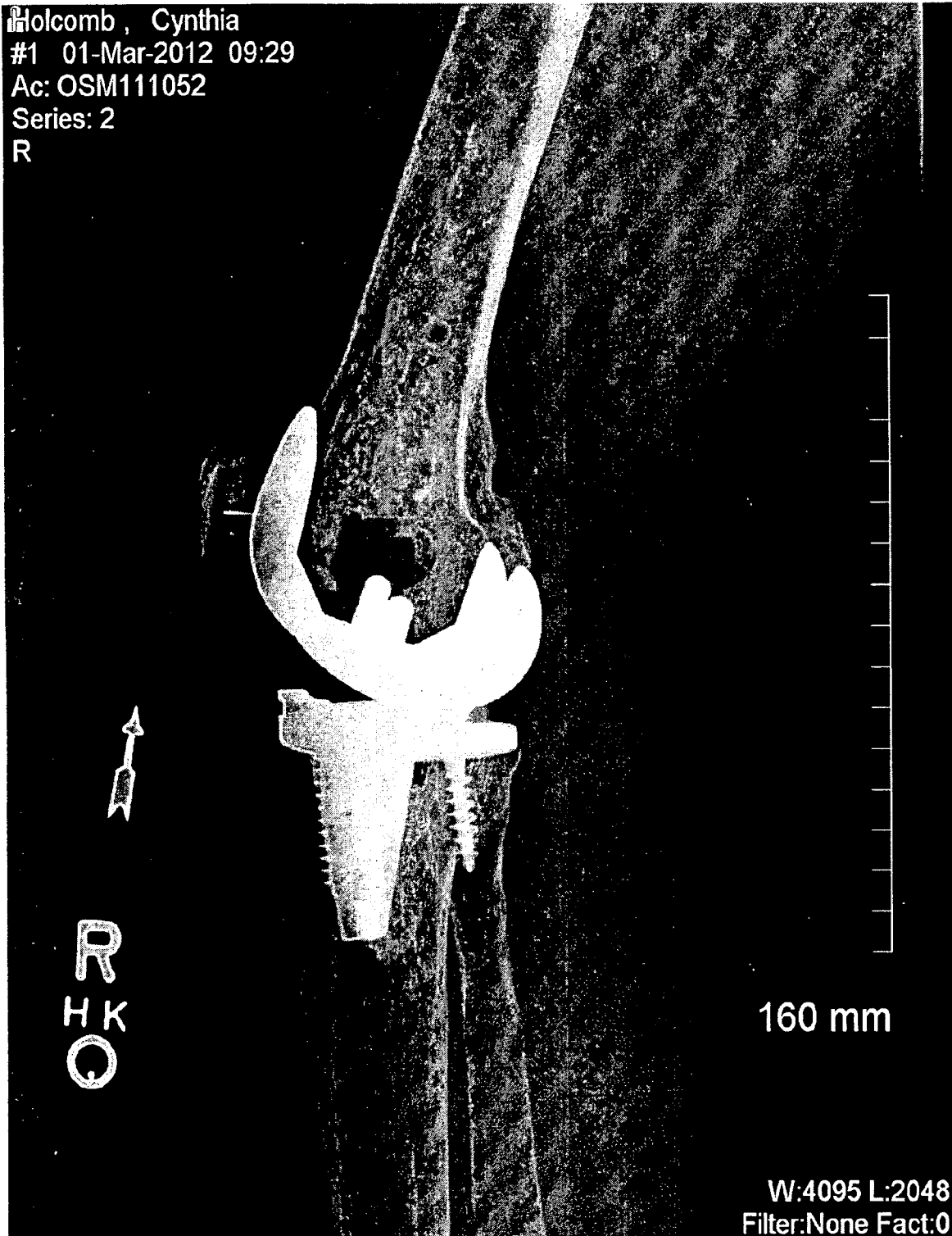
James Allen
VR Counselor *#A05 JA052*



Left Knee Avascular Necrosis (AVN)

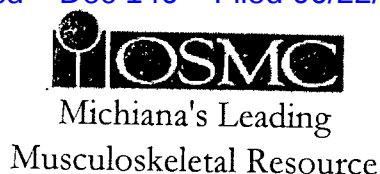


Right Knee Avascular Necrosis (AVN)



OSMC Elkhart
2310 California Road
Elkhart, Indiana 46514
Phone: 574-264-0791 ~
Toll Free: 1-800-398-2058
Fax: 574-262-5183

OSMC Goshen
1615 Winsted Drive
Goshen, IN 46526
Phone: 574-533-0300



OSMC Middlebury
54938 SR 13
Middlebury, IN 46540
Phone: 574-825-8685

OSMC Nappanee
3000 North Main Street
Nappanee, IN 46550
Phone: 574-773-2499

OFFICE VISIT NOTE

PATIENT: Cynthia A. Holcomb
DATE OF BIRTH: 05/25/1958
AGE: 53 Years **GENDER:** Female
OFFICE VISIT DATE: 03/01/2012 8:30 AM
REFERRING PHYSICIAN: Alan Bierlein, MD
PRIMARY CARE PROVIDER: Alan Bierlein, MD

PHYSICIAN: MARK A. KLAASSEN MD

HISTORY OF PRESENT ILLNESS

Chief Complaint 1: Bilateral Knee pain.

Onset Date: 10year(s) ago

Location: below knee prosthesis

Pain at Worst: severe (10) **Pain at Best:**

Quality (character): / sharp / stabbing

Context / Aggravated by: walking / bending

Relieved by: rest / immobilization

Associated Signs, Symptoms and Other Characteristics: crepitus / swelling

Comments: She had bilateral total knees done in 1993 in Chicago. She states the surgeon who did the surgery is now deceased. She had a bone scan done in 2002 which she states showed mild loosening. She has lost height per a bone density scan between her knees and ankles. She has osteopenia and osteoporosis. She has bilateral knees with osteolysis and loosening of the femoral component and she will need revisions long stemmed. This will be a big surgery and she is at high risk. She also has bilateral hip replacements with wear of the polyethylene.

Chief Complaint 2: Left Lumbar Spine pain.

Onset Date: 4month(s) ago

Location: lumbosacral area / sacrum

Pain Severity on Average: moderate (5-6) **Scale:**

Quality (character): / aching / burning - constantly

Context / Aggravated by: sit to stand / lying down / moving

Relieved by: sleeping on her back with her knees "frogged out" / s

Associated Signs, Symptoms and Other Characteristics: catching / locking when stands up from sitting

MEDICATIONS

Protonix
Synthroid

ALLERGIES

Allergy To:

Other Allergies Steroids

Reaction

Bone Death, Swelling, Moon Face

Past Medical / Social History

Orthopedic Surgery:

Date	Side	Surgery	Physician	Location
10/1991	Left	shoulder arthroplasty - hemi	B. Mass	UCH
10/1991	Right	knee arthroplasty - total - primary	L. Pothenger	University of Chicago
04/1992	Right	shoulder arthroplasty - hemi	B. Mass	UCH
10/1992	Left	hip arthroplasty - total - primary	L. Pothenger	University of Chicago
10/1993	Right	hip arthroplasty - total - primary	L. Pothenger	University of Chicago
10/1992	Left	knee arthroplasty - total - primary	L. Pothenger	University of Chicago

Hospital Admissions / Procedures

Date	Procedure / Problem
1988	subdural hematoma

X-RAYS

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Knee 3 VW - Right AP, Lateral, Sunrise -weight bearing

Prosthesis: cemented total knee in good alignment / prosthesis loosening/Osteolysis

Knee 3 VW - Left AP, Lateral, Sunrise -weight bearing

Prosthesis: cemented total knee in good alignment / prosthesis loosening/Osteolysis

L Spine 3VW w/spot - AP, Lateral, Lateral Spot L5S1

Arthritis: moderate to severe-L5 - S1 Findings: degenerative disc disease

Arthritis 2: mild to moderate-Lumbar Spine Findings: degenerative disc disease

Pelvis 1VW AP - AP

Prosthesis: press fit total hip in good alignment/PE wear bilat

LABS

Labs ordered:

CBC with differential

complete metabolic panel

PT Protime / INR

urine screen for bacteria, culture if indicated

EKG

Chest X-Ray

PHYSICAL THERAPY REFERRAL

Physical Therapy Ordered for:

Cc	Side	Dx Code	Dx
Knee	bilateral	V43.65	TOTAL KNEE - CEMENTED
Knee	bilateral	719.46	PAIN, KNEE
Knee	bilateral		Osteolysis
Cc	Side	Dx Code	Dx
Lumbar Spine	left	722.52	DEGENERATIVE DISC DISEASE - LUMBAR LUMBAR
Lumbar Spine	left	720.2	SACROILITIS SACROILIAC

EVALUATE AND TREAT AS INDICATED

Post-op Therapy to start: 1 week post-op

IMPRESSION

DISCUSSION PLAN - ONE

Cc	Side	Dx Code	Dx
Knee	bilateral	V43.65	TOTAL KNEE - CEMENTED
Knee	bilateral	719.46	PAIN, KNEE
Knee	bilateral		Osteolysis

Tests Reviewed

previous medical records

Findings: Bilateral total hip arthroplasty, bilateral hemi shoulder arthroplasties and bilateral total knee arthroplasties

Surgery was recommended. See summary below for details.

Continue: activity modification

Follow up in Patient to call

DISCUSSION PLAN - TWO

Cc	Side	Dx Code	Dx
Lumbar Spine	left	722.52	DEGENERATIVE DISC DISEASE - LUMBAR LUMBAR
Lumbar Spine	left	720.2	SACROILITIS SACROILIAC

Tests Reviewed

Patient Chart

Follow-up in: next available to: Pain Physician

Details for Surgery / Procedure that was recommended.

Surgery Type:

right - Knee - Arthroplasty - Total - Revision (both components) - 27487 / Knee /

left - Knee - Arthroplasty - Total - Revision (both components) - 27487 / Knee /

Surgery Risk(s) discussed

The nature of the diagnosis and the recommended treatment plan were discussed with the patient. The indications, risks, and anticipated benefits of the recommended procedure were described. Specific risks of the procedure including allergic reaction, amputation, anesthetic risks, blood transfusion, pain, instability, dislocation, decreased range of motion, DVT, failure to heal, hardware failure, hardware removal, infection, leg length discrepancy, malunion, non-union, paralysis, permanent limp, pneumonia, shortening, stiffness, temporary or permanent nerve injury, unsightly scar, vascular injury, scar tenderness, numbness, fusion, implant wear, osteolysis, revision(s), and death were explained. General risks of any surgical procedure and (local / general / regional) anesthesia were also discussed. Alternative treatment options, including no treatment, were then discussed. The risks, benefits, and anticipated outcomes of each were explained. The patient expressed an understanding of our discussion. All questions and concerns were answered and addressed to the patient's



IBR ALT DOC

Income-Based Repayment Plan Alternative Documentation of Income Federal Family Education Loan Program

OMB No. 1845-0102
Form Approved
Exp. Date 04/30/2013

WARNING: Any person who knowingly makes a false statement or misrepresentation on this form or on any accompanying documents is subject to penalties that may include fines, imprisonment, or both, under the U.S. Criminal Code and 20 U.S.C. 1097.

SECTION 1: BORROWER IDENTIFICATIONCYNTHIA A HOLCOMB
1702 LONGWOOD CT
GOSHEN
02

IN 46526-1469

Please

SSN

Name

Address

City, State, Zip Code

Telephone - Home ()

Telephone - Other ()

E-mail Address (Optional)

SECTION 2: INSTRUCTIONS AND INFORMATION

Type or print using dark ink. If you need help completing this form, contact your loan holder. Return the completed form and any required documentation to the address shown in Section 6.

Complete this form if you want to repay or continue to repay your eligible Federal Family Education Loan Program (FFELP) loan(s) under the Income-Based Repayment (IBR) plan and:

- (1) You believe that your adjusted gross income (AGI), as reported on your most recently filed federal income tax return, does not reasonably reflect your current income (and/or your spouse's current income, if you are married and file a joint federal income tax return); your loan holder will make this determination based on the information you provide with this form;
- (2) Your loan holder has requested that you provide alternative documentation of income because your loan holder believes that your adjusted gross income (AGI), as reported on your most recently filed federal income tax return, does not reasonably reflect your current income (and/or your spouse's current income, if you are married and file a joint federal income tax return);
- (3) You have been notified by your loan holder that the Internal Revenue Service (IRS) is unable to provide your loan holder with documentation of your AGI; or
- (4) You have notified your loan holder that you are not required to file a federal income tax return for the most recently ended tax year.

The amount of your monthly payment under the IBR plan is based on your current income (and your spouse's current income, if you are married and file a joint federal income tax return) and is reevaluated annually. To submit alternative documentation of your income, you must attach documentation of that income as described in Section 4, complete this form, including your signature in Section 5, and return it to the address shown in Section 6. If you are married and file a joint federal income tax return, your spouse must also sign in Section 5.

SECTION 3: SPOUSE INFORMATION (IF YOU ARE MARRIED AND FILE A JOINT FEDERAL INCOME TAX RETURN)

Name Last First Middle Initial

Address Number and Street City State Zip Code

SECTION 4: INCOME INFORMATION (MUST BE COMPLETED BY THE BORROWER AND SPOUSE, IF MARRIED AND FILE A JOINT FEDERAL INCOME TAX RETURN)

You must provide your total annual taxable income from all sources that you currently receive (for example, income from employment, unemployment income, dividend income, interest income, tips, alimony). If you are married and file a joint federal income tax return, you must also provide your spouse's annual taxable income. Do not report untaxed income such as Supplemental Security Income, child support, or federal or state public assistance.

You must provide supporting documentation for all income (yours and your spouse's) reported in this section (for example, pay stubs, letters from your employers listing income, interest or bank statements, dividend statements), or, if these forms of documentation are unavailable, a signed statement explaining the income source(s) and giving the name and the address of the source(s). The date on any supporting documentation you provide must be no older than 90 days from the date you sign this form.

Your eligibility for the IBR plan and your payment amount will be determined based on your annual income as supported by the documentation you provide.

- ☒ Check this box if you do not have any income or receive only untaxed income such as Supplemental Security Income, child support, or federal or state public assistance.
- ☐ Check this box if you are married and file a joint federal income tax return and your spouse does not have any income or receives only untaxed income such as Supplemental Security Income, child support, or federal or state public assistance.

Complete the items below by entering your annual taxable income (as defined above).

Your annual taxable income: \$ (as supported by the documentation you provide)

Your spouse's annual taxable income, if you are married and file a joint federal income tax return: \$ (as supported by the documentation you provide)

**SECTION 5: AUTHORIZATION, UNDERSTANDINGS, CERTIFICATION AND SIGNATURE
(MUST BE COMPLETED BY THE BORROWER AND SPOUSE, IF MARRIED AND FILE A JOINT FEDERAL INCOME TAX RETURN)**

- I authorize the school, the lender, the guarantor, the U.S. Department of Education, and their respective agents and contractors to contact me regarding my loan(s), including repayment of my loan(s), at the current or any future number that I provide for my cellular telephone or other wireless device using automated telephone dialing equipment or artificial or prerecorded voice or text messages.
- I understand that my income information may be requested from the IRS even if alternative documentation of my income is accepted. I understand that if I am married and file a joint federal income tax return with my spouse, my spouse's income information, documentation, and signature are required. I understand I must agree to provide to the loan holder on an annual basis documentation of my income for the purpose of determining my monthly payment amount under the IBR plan.
- I certify that all of the information I have provided on this form and in any accompanying documentation is true, complete, and correct to the best of my knowledge and belief.

Borrower Signature

Date (mm-dd-yyyy)

Spouse Signature (if required)

Date (mm-dd-yyyy)

3rd Notice

CC: File

Enclosure: 2011 Tax Return form 1040

Department of the Treasury—Internal Revenue Service (99)

U.S. Individual Income Tax Return

2011

OMB No. 1545-0074

IRS Use Only—Do not write or staple in this space.

For the year Jan. 1–Dec. 31, 2011, or other tax year beginning

, 2011, ending

, 20

See separate instructions.

Your first name and initial

Last name

Cynthia Ann

Holcomb

Your social security number

If a joint return, spouse's first name and initial

Last name

Spouse's social security number

Home address (number and street). If you have a P.O. box, see instructions.

1702 Longwood Court

Apt. no.

▲ Make sure the SSN(s) above and on line 6c are correct.

City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions).

Goshen, IN 46526

Presidential Election Campaign

Check here if you, or your spouse if filing jointly, want \$3 to go to this fund. Checking a box below will not change your tax or refund. ☐ You ☐ Spouse

Foreign country name

Foreign province/county

Foreign postal code

Filing Status

1 ☒ Single2 ☐ Married filing jointly (even if only one had income)3 ☐ Married filing separately. Enter spouse's SSN above and full name here. ▶4 ☐ Head of household (with qualifying person). (See instructions.) If the qualifying person is a child but not your dependent, enter this child's name here. ▶5 ☐ Qualifying widow(er) with dependent child

Check only one box.

Exemptions

6a ☒ Yourself. If someone can claim you as a dependent, do not check box 6ab ☒ Spouse

c Dependents:

(1) First name

Last name

(2) Dependent's social security number

(3) Dependent's relationship to you

(4) ☒ If child under age 17 qualifying for child tax credit (see instructions)If more than four dependents, see instructions and check here ☐

d Total number of exemptions claimed

Boxes checked on 6a and 6b

1

No. of children on 6c who:
 • lived with you
 • did not live with you due to divorce or separation (see instructions)

Dependents on 6c not entered above

Add numbers on lines above ▶

1

Income

7 Wages, salaries, tips, etc. Attach Form(s) W-2

8a Taxable interest. Attach Schedule B if required

b Tax-exempt interest. Do not include on line 8a

8b

9a Ordinary dividends. Attach Schedule B if required

b Qualified dividends

9b

10 Taxable refunds, credits, or offsets of state and local income taxes

11 Alimony received

12 Business income or (loss). Attach Schedule C or C-EZ

13 Capital gain or (loss). Attach Schedule D if required. If not required, check here ☐

14 Other gains or (losses). Attach Form 4797

15a IRA distributions

15a

b Taxable amount

16a Pensions and annuities

16a

b Taxable amount

17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E

18 Farm income or (loss). Attach Schedule F

19 Unemployment compensation

20a Social security benefits

20a

25446 00

b Taxable amount

21 Other income. List type and amount

22 Combine the amounts in the far right column for lines 7 through 21. This is your total income ▶

23 Educator expenses

23

24 Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ

24

25 Health savings account deduction. Attach Form 8889

25

26 Moving expenses. Attach Form 3903

26

27 Deductible part of self-employment tax. Attach Schedule SE

27

28 Self-employed SEP, SIMPLE, and qualified plans

28

29 Self-employed health insurance deduction

29

30 Penalty on early withdrawal of savings

30

31a Alimony paid b Recipient's SSN ▶

31a

32 IRA deduction

32

33 Student loan interest deduction

33

34 Tuition and fees. Attach Form 8917

34

35 Domestic production activities deduction. Attach Form 8903

35

36 Add lines 23 through 35

36

37 Subtract line 36 from line 22. This is your adjusted gross income ▶

37

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 11320B

Form 1040 (2011)

Gross
Disability
2011

No Medicare
Premiums
Are
Deducted
from
This

38 Amount from line 37 (adjusted gross income)		38	-0-
39a Check <input type="checkbox"/> You were born before January 2, 1947, <input type="checkbox"/> Blind. Total boxes			
if: <input type="checkbox"/> Spouse was born before January 2, 1947, <input type="checkbox"/> Blind. checked ▶ 39a			
b If your spouse itemizes on a separate return or you were a dual-status alien, check here ▶ 39b <input type="checkbox"/>			
40 Itemized deductions (from Schedule A) or your standard deduction (see left margin)		40	5800
41 Subtract line 40 from line 38		41	-0-
42 Exemptions. Multiply \$3,700 by the number on line 6d.		42	3700
43 Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-		43	-0-
44 Tax (see instructions). Check if any from: a <input type="checkbox"/> Form(s) 8814 b <input type="checkbox"/> Form 4972 c <input type="checkbox"/> 962 election		44	-0-
45 Alternative minimum tax (see instructions). Attach Form 6251		45	-0-
46 Add lines 44 and 45		46	-0-
47 Foreign tax credit. Attach Form 1116 if required		47	
48 Credit for child and dependent care expenses. Attach Form 2441		48	
49 Education credits from Form 8863, line 23		49	
50 Retirement savings contributions credit. Attach Form 8880		50	
51 Child tax credit (see instructions)		51	
52 Residential energy credits. Attach Form 5695		52	
53 Other credits from Form: a <input type="checkbox"/> 3800 b <input type="checkbox"/> 8801 c <input type="checkbox"/>		53	
54 Add lines 47 through 53. These are your total credits		54	-0-
55 Subtract line 54 from line 46. If line 54 is more than line 46, enter -0-		55	-0-
56 Self-employment tax. Attach Schedule SE		56	
57 Unreported social security and Medicare tax from Form: a <input type="checkbox"/> 4137 b <input type="checkbox"/> 8919		57	
58 Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required		58	
59a Household employment taxes from Schedule H		59a	
b First-time homebuyer credit repayment. Attach Form 5405 if required		59b	
60 Other taxes. Enter code(s) from instructions		60	
61 Add lines 55 through 60. This is your total tax		61	-0-
62 Federal income tax withheld from Forms W-2 and 1099		62	
63 2011 estimated tax payments and amount applied from 2010 return		63	
64a Earned income credit (EIC)		64a	
b Nontaxable combat pay election 64b		64b	
65 Additional child tax credit. Attach Form 8812		65	
66 American opportunity credit from Form 8863, line 14		66	
67 First-time homebuyer credit from Form 5405, line 10		67	
68 Amount paid with request for extension to file		68	
69 Excess social security and tier 1 RRTA tax withheld		69	
70 Credit for federal tax on fuels. Attach Form 4136		70	
71 Credits from Form: a <input type="checkbox"/> 2439 b <input type="checkbox"/> 8839 c <input type="checkbox"/> 8801 d <input type="checkbox"/> 8885		71	
72 Add lines 62, 63, 64a, and 65 through 71. These are your total payments		72	-0-
73 If line 72 is more than line 61, subtract line 61 from line 72. This is the amount you overpaid		73	-0-
74a Amount of line 73 you want refunded to you. If Form 8888 is attached, check here <input type="checkbox"/>		74a	-0-
b Routing number		c Type: <input type="checkbox"/> Checking <input type="checkbox"/> Savings	
d Account number			
75 Amount of line 73 you want applied to your 2012 estimated tax		75	-0-
76 Amount you owe. Subtract line 72 from line 61. For details on how to pay, see instructions		76	-0-
77 Estimated tax penalty (see instructions)		77	-0-

Other Taxes

Payments

Refund

Amount You Owe

Third Party Designee

Do you want to allow another person to discuss this return with the IRS (see instructions)? ☐ Yes. Complete below. ☒ No

Designee's name ▶ Phone no. ▶ Personal identification number (PIN) ▶

Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature ▶ Date 1/31/12 ▶ Your occupation Disabled ▶ Daytime phone number 574-536-9470

Spouse's signature. If a joint return, both must sign. ▶ Date ▶ Spouse's occupation ▶ If the IRS sent you an Identity Protection PIN, enter it here (see inst.)

Preparer Use Only

Print/Type preparer's name ▶ Preparer's signature ▶ Date ▶ PTIN

Firm's name ▶ Firm's EIN ▶

Firm's address ▶ Phone no. ▶



IBR ALT DOC

Income-Based Repayment Plan Alternative Documentation of Income Federal Family Education Loan Program

OMB No. 1845-0102
Form Approved
Exp. Date 04/30/2013

WARNING: Any person who knowingly makes a false statement or misrepresentation on this form or on any accompanying documents is subject to penalties that may include fines, imprisonment, or both, under the U.S. Criminal Code and 20 U.S.C. 1097.

SECTION 1: BORROWER IDENTIFICATION

Please enter or correct the following information.

SS. _____

Name CYNTHIA HOLCOMBAddress 1702 LONGWOOD CT YCity, State, Zip Code GOSHEN, IN 46526Telephone - Home (574) 536-9470Telephone - Other (None)

E-mail Address (Optional) _____

*Mailed to
Sallie Mae
PO Box 9500
Wilkes Barre, PA 18773-9500*

SECTION 2: INSTRUCTIONS AND INFORMATION

Type or print using dark ink. If you need help completing this form, contact your loan holder. Return the completed form and any required documentation to the address shown in Section 6.

Complete this form if you want to repay or continue to repay your eligible Federal Family Education Loan Program (FFELP) loan(s) under the Income-Based Repayment (IBR) plan and:

- (1) You believe that your adjusted gross income (AGI), as reported on your most recently filed federal income tax return, does not reasonably reflect your current income (and/or your spouse's current income, if you are married and file a joint federal income tax return); your loan holder will make this determination based on the information you provide with this form;
- (2) Your loan holder has requested that you provide alternative documentation of income because your loan holder believes that your adjusted gross income (AGI), as reported on your most recently filed federal income tax return, does not reasonably reflect your current income (and/or your spouse's current income, if you are married and file a joint federal income tax return);
- (3) You have been notified by your loan holder that the Internal Revenue Service (IRS) is unable to provide your loan holder with documentation of your AGI; or
- (4) You have notified your loan holder that you are not required to file a federal income tax return for the most recently ended tax year.

The amount of your monthly payment under the IBR plan is based on your current income (and your spouse's current income, if you are married and file a joint federal income tax return) and is reevaluated annually. To submit alternative documentation of your income, you must attach documentation of that income as described in Section 4, complete this form, including your signature in Section 5, and return it to the address shown in Section 6. If you are married and file a joint federal income tax return, your spouse must also sign in Section 5.

SECTION 3: SPOUSE INFORMATION (IF YOU ARE MARRIED AND FILE A JOINT FEDERAL INCOME TAX RETURN)

Name _____
Last None First _____ Middle Initial _____
Address _____
Number and Street _____ City _____ State _____ Zip Code _____

SECTION 4: INCOME INFORMATION (MUST BE COMPLETED BY THE BORROWER AND SPOUSE, IF MARRIED AND FILE A JOINT FEDERAL INCOME TAX RETURN)

You must provide your total annual taxable income from all sources that you currently receive (for example, income from employment, unemployment income, dividend income, interest income, tips, alimony). If you are married and file a joint federal income tax return, you must also provide your spouse's annual taxable income. **Do not report untaxed income such as Supplemental Security Income, child support, or federal or state public assistance.**

You must provide supporting documentation for all income (yours and your spouse's) reported in this section (for example, pay stubs, letters from your employers listing income, interest or bank statements, dividend statements), or, if these forms of documentation are unavailable, a signed statement explaining the income source(s) and giving the name and the address of the source(s). The date on any supporting documentation you provide must be no older than 90 days from the date you sign this form.

Your eligibility for the IBR plan and your payment amount will be determined based on your annual income as supported by the documentation you provide.

☒ Check this box if you do not have any income or receive only untaxed income such as Supplemental Security Income, child support, or federal or state public assistance.

☐ Check this box if you are married and file a joint federal income tax return and your spouse does not have any income or receives only untaxed income such as Supplemental Security Income, child support, or federal or state public assistance.

Complete the items below by entering your annual taxable income (as defined above).

Your annual taxable income: \$ 0 (as supported by the documentation you provide)

Your spouse's annual taxable income, if you are married and file a joint federal income tax return: \$ N/A (as supported by the documentation you provide)

SECTION 5: AUTHORIZATION, UNDERSTANDINGS, CERTIFICATION AND SIGNATURE (MUST BE COMPLETED BY THE BORROWER AND SPOUSE, IF MARRIED AND FILE A JOINT FEDERAL INCOME TAX RETURN)

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☒ I certify that all of the information I have provided on this form and in any accompanying documentation is true, complete, and correct to the best of my knowledge and belief.

Borrower Signature [Signature] Date (mm-dd-yyyy) 9/1/11

Spouse Signature (if required) N/A Date (mm-dd-yyyy) N/A